

United States District Court
For the State of New Mexico
10th Circuit

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

MAY 31 2016

Owen Puckett #39062051
United States Penitentiary - USP 2
P.O. Box 1034
Coleman, Florida 33521
defendant

JD: COURT CLERK

MATTHEW J. DYKMAN

CLERK

16 cv 511 WJ/WPL

07 cr 766 WJ

MAY 24, 2016

UNITED STATES DISTRICT COURT, 10th DISTRICT

MOTION FOR

RE: Owen Puckett #39062051

Dear clerical court please let this letter serve as a MOTION to file under 28USC§2255 with the following authority. Specifically petitioner writes this letter to call this courts attention to WELCH v United States, US2016 WL1551144, April 18, 2016 in which the Supreme Court held that Johnson is retro active on collateral review.

In WELCH, the Supreme court clarified that a rule is substantive rather than procedural if it alters the range of conduct or class of person that the law punishes. 2016 WL1551144@ 7 (quoting, schirra, 342 US@ 353) Procedural rules by contrast, regulate only the manner of determining a defendants probability.
WELCH 2016 WL1551144 @ 7. citations omitted.

Petitioner includes this discussion of Welch in this letter, rather than in the body of his application to file 2255 petition. The MOVANT is writing this letter PRO SE in hopes of gaining undersigned counsel in anticipation of WELCH vs UNITED STATES. By the same logic, Johnson is not a procedural decision because it had nothing to do with the range of permissible methods the court might use to determine whether a defendant should be sentenced under the Armed Career Criminal Act. For example Johnson did not allocate decision making authority between judge and jury, or regulate the evidence that the court could consider in making its decision. Rather unlike these judicial procedure by writ statute is applied, Johnson affected the reach of the underlying statutes. Johnson is thus substantive decision, and so had retroactive effect under Teague in cases on collateral review.

This petitioner request copy's of pre-sentence report, sentencing transcripts and docket sheet showing this motion has been filed to move forward with further proceeding.

Respectfully submitted,

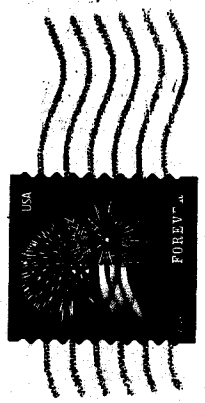
Owen Pickett #390620

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